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CHEMICAL HAZARDS ON THE JOB

YOUR RIGHT TO KNOW

A Booklet on Workers' Rights

Under the Massachusetts

Right to Know Law

GOVERNMENT DOCUMENTS
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CHEMICAL HAZARDS ON THE JOB:

YOUR RIGHT TO KNOW

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June, 1987

This publication is not to be copied and sold for commercial purposes.

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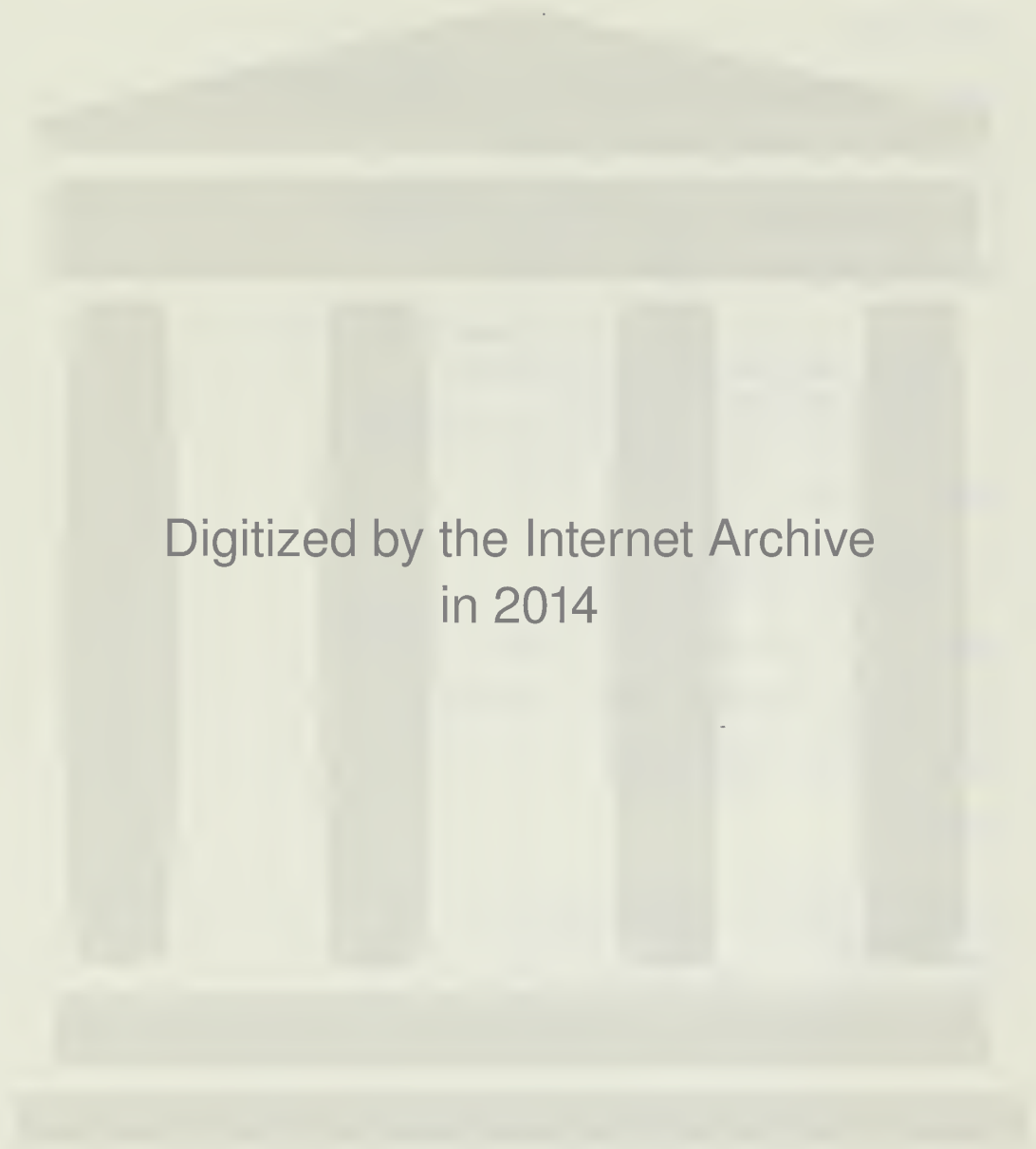

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CHEMICAL HAZARDS ON THE JOB: YOUR RIGHT TO KNOW

I. INTRODUCTION

This booklet is designed to help you, as an employee*, become familiar with your right to know about hazardous substances at your workplace.

The Massachusetts Right to Know Law (MGL, Ch. 111F) gives you and community residents the right to learn about many of the toxic materials to which you may be exposed. The law was passed as a result of worker and community concern about:

1. exposure to toxic substances on the job;
2. air and water pollution from industrial emissions;
3. hazardous waste sites; and
4. fires and spills involving dangerous chemicals.

The law requires your employer to inform you of both the chemical hazards at your workplace and the precautions necessary to protect your health and safety. The following sections of this booklet explain your specific rights. In reading this booklet and when exercising your rights under the Right to Know Law, you should keep in mind that this law only gives you the right to information on toxic exposures and recommended precautions. The law itself does not require your employer to control, or minimize, such hazards; however, there are other laws that may require your employer to provide workplace protections.

II. WHICH SUBSTANCES ARE COVERED BY THE RIGHT TO KNOW LAW?

The list of substances covered by the law currently includes over 1600 toxic chemicals. This list is referred to as the Massachusetts Substance List (MSL). Any product, with a few exceptions, containing ingredients on the MSL, is covered by the Right to Know Law. The ingredients, however, must make up at least 1% of the product, or 2%, if the ingredient is an impurity. For a sub-group of "extraordinarily hazardous substances" on the MSL the minimum is .0001% (1 part per million).

Many of the toxic substances used in your workplace are probably found on the MSL. However, there are hazardous materials that are not covered by the law. In order to find out which substances in your workplace are covered by the law you should consult the MSL. (See the Appendix, page 12, for instructions on how to obtain the MSL and other Right to Know documents.)

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* If your employer is a manufacturer, you may not be covered by the Massachusetts Right to Know Law, but there is a similar OSHA regulation called the OSHA Hazard Communication Standard. If you are not sure which law covers you, call a Department of Labor and Industries office. (See Workplace Notice in Appendix, page 11.) Research laboratories may apply to the Department of Public Health for an exemption from the law. (For more information call the DPH, tel. 727-4942.)

III. WHAT ARE MY RIGHTS UNDER THE LAW?

The Right to Know Law gives you several important rights:

1. workplace notice, posted by your employer;

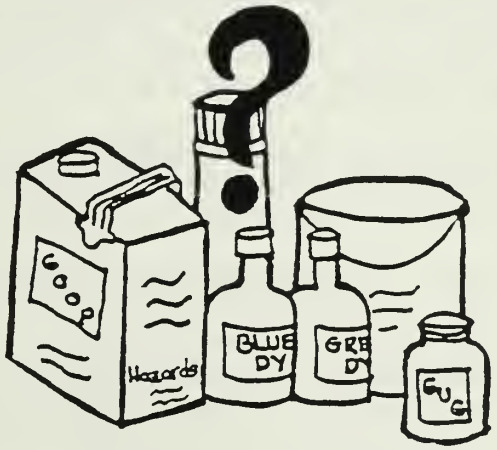
2. labeling, with the chemical name, on containers of regulated substances, if the containers are over five pounds or over one gallon;

3. access to material safety data sheets (MSDSs) on all regulated chemicals to which you may be exposed;

4. refusal to work with a substance (see page 6);

5. annual training on the hazards and appropriate safety precautions for the chemicals in your workplace; and

6. the option to file a complaint with the Department of Labor and Industries (DLI) against an employer who does not comply with the law.



IV. WHAT IS THE RIGHT TO KNOW WORKPLACE NOTICE?

Your rights are summarized in a Right to Know Workplace Notice that your employer must post in a central workplace location, e.g., the lunch room, near a time clock, etc. (See the Appendix, page 12 for a copy of the notice.) The notice must be in English; however, if any employee speaks a language other than English, a Workplace Notice in that language must also be posted. Workplace Notices are currently available in the following languages from the Department of Labor and Industries:

Cambodian	French	Portuguese
Chinese	Italian	Spanish
English	Laotian	Vietnamese
	Polish	

V. HOW CAN LABELING BE USEFUL TO ME?

Labeling is a very important part of preventing job accidents. The label on a container provides an immedate source of information. It may identify the chemicals in the product and some of its hazards. Under the Right to Know Law, there are labeling requirements for containers of substances on the Massachusetts Substance List (MSL). The following is a summary of these legal requirements and the kinds of containers that are exempt.

A. What are the labeling requirements of the law?

The Right to Know Law requires that containers over a certain size be labeled with the chemical names of the ingredients that are on the MSL.

B. Which containers must be labeled?

1. Containers greater than 1 gallon or more than 5 pounds must be labeled with the chemical name(s) of the MSL substance or ingredients.

2. Containers of chemicals greater than 5 gallons or 30 pounds, which are classified as flammable or combustible by the NFPA (National Fire Protection Association), have additional requirements. The appropriate NFPA label must also be on these containers (see page 4).

3. Vessels, pipes, fixed tanks or other containers that regularly contain different chemical substances must be posted with the chemical name(s) of the current content at points where employees may be exposed.

C. Which containers are exempt from the labeling requirements?

The Right to Know labeling requirements do not apply to certain containers. These exemptions apply only to labeling requirements. Your employer is still required to obtain MSDSs for these products, and to train you on the hazards. The following containers are exempt from labeling requirements:

1. Containers which are labeled in accordance with certain federal regulations are exempt. Some examples are: pesticides, food, medicine, and radioactive substances.

2. Small containers which are less than or equal to 1 gallon or 5 pounds are exempt from the labeling requirements.

3. Transfer containers do not have to be labeled if they are:

   a. 10 gallons or less,
   b. used during the same workshift, and
   c. used by the employee doing the transferring.

D. Are there other labeling requirements?

Additional regulations cover general labeling conditions, NFPA labels, and trade secret labeling requirements:

1. All labels must be legible and prominently located on the container.

2. NFPA Labeling: As previously noted, some containers must also be labeled with the appropriate NFPA label. The NFPA label is a code giving the hazards of the materials, especially during fire or related emergency conditions. The following diagram describes the NFPA label diamond:

(The higher the number the greater the hazard, 0-4)

3. Approved "Trade Secrets": Chemical manufacturers may obtain permission from the Department of Public Health (DPH) to omit the chemical name from certain container labels and MSDSs. The containers and MSDSs for any product given such a trade secret designation must have a code number assigned to it from DPH. If any of the ingredients of the product are identified on the Massachusetts Substance List (MSL) as a carcinogen*, mutagen*, teratogen* or neurotoxin*, then the label must have a "C", "M", "T" or "N", respectively, to indicate these hazards.

VI. MATERIAL SAFETY DATA SHEETS (MSDSs)

A. What is an MSDS?

MSDSs are technical fact sheets on chemical products. The Massachusetts Right to Know Law requires that MSDSs for regulated substances have the following information:

Chemical Manufacturer	Health Risk Data
Identity (chemical and other names)	Control Measures
Physical Data	Special Precautions
Safety Data	Emergency Procedures

For a detailed explanation of how to read an MSDS, see the Division of Occupational Hygiene's booklet, "Understanding MSDSs." (See the Workplace Notice, page 11, for their address and phone number.)

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*Carcinogen - a substance that causes cancer
*Mutagen - a substance that causes changes in the genetic material of the body's cells
*Teratogen - a substance that causes birth defects
*Neurotoxin - a substance that damages the nervous system

B. How do you obtain an MSDS?

As an employee, you have the right to obtain an MSDS from your employer for any regulated substance to which you may be exposed. Former employees, unions and physicians also are entitled to obtain MSDSs. Your employer must:

1. maintain MSDSs in a central location at your workplace; and

2. give you an MSDS within 4 working days of your written request; if an MSDS is not available, the employer must show proof of a "diligent effort" to obtain it. A "diligent effort" consists of at least 1 written request to the chemical manufacturer or supplier for the MSDS, and filing of a copy of that request with the Department of Labor and Industries.

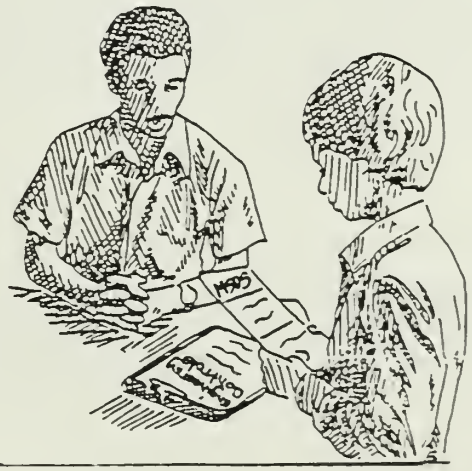
****

Example

The floor cleaner that you used to use ("Wonder Shine") is no longer available. You are now using "Floor Beautiful". In order to find out if you should take any particular precautions and what health effects the cleaner might have, you request an MSDS for "Floor Beautiful" in writing. You should give the request to your supervisor or the company's Right to Know coordinator (an example of an MSDS request form is in the appendix).

****

Once you receive an MSDS there is a restriction on sharing the information with others: you may only share that information with co-workers exposed to that product, with your doctor, and with your spouse*. Also, your employer is not required to give you another MSDS for that same product for a period of one year.



* However, this restriction in the Right to Know Law is currently being challenged in court.

VII. WHAT IF I DO NOT RECEIVE THE MSDS I REQUEST?

If you do not receive a requested MSDS or proof of a diligent effort to obtain it within 4 working days, you may refuse to work with that particular product, while still collecting your regular pay and benefits. However, you may refuse to work only with that substance; and as soon as you receive the MSDS or proof of "diligent efforts" you must resume work with that product.

Your employer may not retaliate against you for exercising this, or any other, right under the Right to Know Law. (See page 10 for the procedure for filing a complaint.)

****

Example

You request in writing, an MSDS for the floor cleaner ("Floor Beautiful") on Tuesday, and just to be sure, you remind your supervisor of your request two days later. By next Monday your employer still has not given you the MSDS nor any evidence of attempts to obtain it from the manufacturer. Because of your concern for the cleaner's possible health hazards, you notify your supervisor that you will not work with it, although you will perform all other aspects of your job. Two days later you receive the MSDS and then resume working with the cleaner.

****

I work in the public sector - do I have the same right to refuse work?

Public employees who provide "essential services", as determined by a senior administrator in writing, do not have this right.* If you do have an "essential service" designation, you must be notified in writing. You also have a right to examine the written determination, which must be kept in a central location with the MSDSs. Under very limited conditions you may also appeal your designation to the Department of Labor and Industries (see the section on Complaints/Appeals, page 9). And you are still entitled to request and receive MSDSs and may file a complaint with DLI if you do not receive an MSDS or proof of a "diligent effort" to obtain one.

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* State officials have declared that, because they will try to obtain all necessary MSDSs, their policy is to encourage state offices not to designate their employees as "essential" under the Right to Know Law.

VIII. WHAT KIND OF TRAINING SHOULD I RECEIVE?

Your employer must give you training if you are, or may be, exposed to a substance on the Massachusetts Substance List (MSL) during the course of your normal working conditions or in the event of a foreseeable emergency. The general requirements of such training are that it be:

1. in non-technical language, by a person experienced in occupational health and safety;
2. during your normal working hours, and at no cost to you; and
3. within 30 days of employment, and then annually.

What must be included in the training?

There are three main parts to employee training under the Right to Know Law:

1. employee rights*;
2. how to read an MSDS**; and
3. specific workplace hazards.

1. Employee Rights

Training under the Right to Know Law must give you a detailed explanation of the following:

a. Right to Know Workplace Notice
b. Container Labeling
c. How to request an MSDS
d. Work refusal when the employer does not provide an MSDS
e. Training
f. Complaints and appeals procedures

2. Material Safety Data Sheets (MSDSs)

In this part of the training each section of an MSDS listed on page 4 must be explained. In addition, occupational exposure limits and other regulatory controls must be covered.

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* This booklet focuses on employee rights.

** Another division of Occupational Hygiene publication, "Understanding MSDSs", gives a detailed explanation of MSDSs. See the Workplace Notice, page 11, for their address and phone number.

3. Specific Training on Workplace Hazards

This is the most important part of the Right to Know training because this part should inform you of the specific hazards of the substances used in your workplace. The training must also cover proper handling procedures and the use of protective clothing and equipment.

a. Grouping Chemicals Together

Whenever possible, you should be trained on each and every toxic or hazardous substance you are, or may be, exposed to under normal working conditions (it is important to note that "normal working conditions" includes foreseeable emergencies). However, if there is a very large number of chemicals the Right to Know Law permits your employer to group substances (for example, by hazardous properties, or by kind of use at the workplace) and train you on each grouping.

Note of Caution; Extremely toxic or hazardous chemicals should not be grouped with less dangerous substances. All extremely hazardous chemicals, such as carcinogens, cyanide, arsenic, etc., should always be dealt with individually in the training program.

b. Presentation of Information

The law does allow the training to consist of only written materials if everyone can read; however, it is quite difficult to do this effectively. A well-designed training should use a combination of educational methods, such as written materials, group presentation, and an actual walk-through of the workplace to discuss the location of hazards, their effects and how to prevent them.

c. Topics that must be covered on specific workplace hazards

The following is a list of the topics that must be included in your training on specific workplace hazards:

1. Chemical and common names
2. Location of hazardous substances
3. Health effects of hazardous substances
4. First aid and antidotes
5. Proper and safe handling
6. Personal protective equipment

4. Labeling of products, designated as trade secrets, which contain carcinogens, mutagens, teratogens and neurotoxins (see page 4).

IX. HOW DO I FILE A COMPLAINT?

The Right to Know Law is enforced by the Division of Industrial Safety (DIS) of the Department of Labor and Industries. If you believe that your employer has not provided you with all the information and training that you think you should have, or if you believe that your employer has discriminated against you because you have exercised your legal rights, you may file a complaint. To submit a complaint or to obtain further information, contact an office of the Department of Labor and Industries. (See the Workplace Notice, page 11, for the list of regional DLI office.)

In general, there are two types of employer violations: failure to comply with the law and discrimination against employees.

A. Failure to Comply with the Law

One kind of violation is a failure by your employer to comply with a provision of the Right to Know Law; for example, you do not receive training, containers are not labeled, etc.

1. Cause to believe

If you believe that your employer is not complying with the Massachusetts Right to Know Law, you can file a complaint with the Department of Labor and Industries (DLI). The Department will not reveal your name to your employer. Inspectors from DLI and other state and federal agencies may also report employer violations.

2. What happens next?

The Commissioner of DLI has 120 days after receiving knowledge of a violation to decid whether to initiate an investigation. If an investigation is initiated, your employer would be notified immediately by certified mail.

3. What happens when the investigation is completed?

This depends upon the findings of the investigation:

a. No wrongful violation has occurred: In this situation your employer would be notified within 10 days. If you filed a complaint in writing, and requested a copy of the findings of the investigation, the Commissioner would also notify you.

b. Good cause to believe a wrongful violation has occurred: The Commissioner would notify your employer immediately and begin the process of eliminating the violation. Here again, the Commissioner's office would notify you of the findings.

c. Penalties: The Commissioner may fine your employer for each day that a violation continues. The Commissioner may request the Attorney General to impose fines and penalties.

d. Judicial Review: Your employer may appeal an order of the Commissioner in the Superior Court for the county in which the violation occurred.

Note: You, the employee, cannot take any private action against your employer under the Right to Know Law. The responsibility for enforcement lies exclusively with the Attorney General.

B. What should I do if my employer fires or retaliates against me for using my rights?

1. If you believe that you have been discriminated against or discharged for exercising your rights under the Right to Know Law, you may file a complaint with the Commissioner of DLI. You should then observe the following steps:

a. Employee Complaint

i. You have 180 days to file after the violation occurred or you found out that the violation occurred.
ii. When you file with the Commissioner of DLI, you must also send a copy, by certified mail, to your employer.

b. Investigation

If you file a written complaint for discrimination after exercising your right to refuse to work with a substance, the Commissioner will hold a hearing within 10 days to resolve the complaint. When DLI conducts an investigation, two results are possible:

i. The Commissioner may determine that there is insufficient evidence to believe a violation occurred. In this case, both you and your employer must be notified within 10 days. You have the right to request a hearing within 10 days of being notified of the Commissioner's determination.

ii. The Commissioner may determine that there is cause to believe a violation occurred. Again, both you and your employer must be notified within 10 days. The Commissioner will then conduct a hearing. If after the hearing the Commissioner determined that your employer did violate the Massachusetts Right to Know Law, action may be taken to change the situation. This action can include a cease and desist order or other similar affirmative action.

c. Appeal

Either you or your employer may appeal the Commissioner's determination in the Superior Court in the county where your workplace is located.

RIGHT to KNOW

WORKPLACE NOTICE

THE RIGHT TO KNOW LAW, Chapter 111F of the Massachusetts General Laws, provides new rights to employees and community residents regarding the communication of information on toxic and hazardous substances.

Those rights include:

WORKPLACE NOTICE A notice must be posted in a central location in the workplace informing employees of their rights under the law. The notice must be in the English Language. It must also be available to non-English speaking persons in their language.

TRAINING Employers must provide an annual training program to employees who work with toxic or hazardous substances. New employees must receive training within thirty days from date of hire. The training program must be conducted by a competent person and may be in the form of verbal and/or written instruction. At a minimum, training must include an explanation of employee rights, the MSDS as a document, and those MSDS's covering toxic or hazardous substances used, handled or stored in the workplace; applicable protective equipment, clothing and labeling of substances that are carcinogenic, mutagenic, teratogenetic or neurotoxic. The employer must keep a record of this training or instruction which must be given with pay during the employee's normal work or shift hours.

MATERIAL SAFETY DATA SHEET (MSDS) The Material Safety Data Sheet is the document that provides information on each toxic or hazardous substance used or stored in the workplace. An employee or his or her designated representative has the right to obtain and examine the MSDS for any toxic or hazardous substance to which the employee "is", "may be" or "has been" exposed, if the employee's request is made to the employer in writing. After four working days from the date the request is made an employee can refuse to work with the substance when two conditions exist.

1. The employer fails to furnish the employee with an MSDS and 2. the employer fails to furnish the employee with proof that the employer has exercised diligent efforts to obtain an MSDS, either from the manufacturer or through the Commissioner of Labor and Industries.

Public employees classified as performing an essential service may not refuse to work with the substance.

LABELING All containers in the workplace of more than five pounds or more than one gallon, containing toxic or hazardous substances, must be labeled with the chemical name of the substance. Containers of mixtures must be labeled with the chemical name of each toxic or hazardous constituent when the constituents comprise one percent or more of the mixture. Containers of more than 30 pounds or more than 5 gallons must also be labeled with the appropriate National Fire Prevention Association (NFPA) Symbol. Labels must be clear, prominent, in English and weather resistant.

NON-DISCRIMINATION An employee who believes he or she has been discharged, disciplined or discriminated against by an employer for exercising rights granted under the Law, has one hundred-eighty days to file a complaint with the Commissioner of the Department of Labor and Industries. A copy of the verified complaint must be sent to the employer at the same time by certified mail.

THE COMMONWEALTH OF MASSACHUSETTS / DEPARTMENT OF LABOR AND INDUSTRIES

Division of Industrial Safety Branch Offices

Boston. . . . . (617) 727-3460
New Bedford . . . . (617) 997-8263 or 727-4994
Worcester . . . . . (617) 752-6504
Lawrence. . . . . (617) 681-7798 or 727-0611
Springfield . . . . (413) 734-1421
Pittsfield. . . . . (413) 445-4214

Division of Occupational Hygiene . . . (617) 969-7177

RICHARD LEVINE
Director

The Commonwealth of Massachusetts

Executive Office of Labor

Department of Labor and Industries
Division of Occupational Hygiene
1001 Watertown Street
West Newton 02165

HOW TO OBTAIN MASSACHUSETTS RIGHT TO KNOW DOCUMENTS

1) Complete Right to Know Booklet

All official state documents pertaining to the Massachusetts Right to Know Law are available in this booklet. It contains a copy of the law; the regulations of the departments; the Massachusetts Substance List by CAS number and in alphabetical order; and the List of Extraordinarily Hazardous Substances. It is $5.60 plus $.75 for postage.

2) Employer Assistance Manual

Written in lay language, the manual reviews employers' requirements under the law and provides tips on how to accomplish the tasks. It is $4.40 plus $.75 for postage.

The postage for the above two documents ordered together is $1.00.

3) Massachusetts Substance List

The Massachusetts Substance List (MSL) is periodically reviewed and amended. The amended list is included in the "Complete Right to Know Booklet". However, it is also available separately for approximately six months after it is amended. Contact below to check if it is currently available.

The above documents are available from either of these locations:

Massachusetts State House
Bookstore, Room 116
Boston, MA 02133
(617) 727-2834

Secretary of State/
Western Office
21 Elm Street
Springfield, MA 01103
(413) 733-7876

Checks should be made payable to the Commonwealth of Massachusetts.

SAMPLE MATERIAL SAFETY DATA SHEET (MSDS)

Material Safety Data Sheet

May be used to comply with
OSHA's Hazard Communication Standard,
29 CFR 1910.1200. Standard must be
consulted for specific requirements

U.S. Department of Labor
Occupational Safety and Health Administration
(Non-Mandatory Form)
Form Approved
OMB No. 1218-0072

IDENTITY *(As Used on Label and List)* *	*Note: Blank spaces are not permitted. If any item is not applicable, or no information is available, the space must be marked to indicate that.*

Section I

Manufacturer's Name	Emergency Telephone Number
Address *(Number, Street, City, State, and ZIP Code)*	Telephone Number for Information
	Date Prepared
	Signature of Preparer *(optional)*

Section II — Hazardous Ingredients/Identity Information *

Hazardous Components (Specific Chemical Identity; Common Name(s))	OSHA PEL	ACGIH TLV	Other Limits Recommended	% *(optional)*

Section III — Physical/Chemical Characteristics

Boiling Point		Specific Gravity (H_2O = 1)	
Vapor Pressure (mm Hg)		Melting Point	
Vapor Density (AIR = 1)		Evaporation Rate (Butyl Acetate = 1)	

Solubility in Water

Appearance and Odor

Section IV — Fire and Explosion Hazard Data

Flash Point (Method Used)	Flammable Limits	LEL	UEL

Extinguishing Media

Special Fire Fighting Procedures

Unusual Fire and Explosion Hazards

(Reproduce locally) OSHA 174, Sept. 1985

Section V — Reactivity Data

Stability			Conditions to Avoid
	Unstable		
	Stable		

Incompatibility (*Materials to Avoid*)

Hazardous Decomposition or Byproducts

Hazardous Polymerization			Conditions to Avoid
	May Occur		
	Will Not Occur		

Section VI — Health Hazard Data

Route(s) of Entry Inhalation? Skin? Ingestion?

Health Hazards (*Acute and Chronic*)

Carcinogenicity NTP? IARC Monographs? OSHA Regulated?

Signs and Symptoms of Exposure

Medical Conditions
Generally Aggravated by Exposure

Emergency and First Aid Procedures

Section VII — Precautions for Safe Handling and Use

Steps to Be Taken in Case Material Is Released or Spilled

Waste Disposal Method

Precautions to Be Taken in Handling and Storing

Other Precautions

Section VIII — Control Measures

Respiratory Protection (*Specify Type*)

Ventilation	Local Exhaust	Special
	Mechanical (*General*)	Other

Protective Gloves	Eye Protection

Other Protective Clothing or Equipment

Work/Hygienic Practices

Page 2 * U.S.G.P.O. 1988-491-537

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*There is no specific space for Chemical Abstract Service (CAS)Number on this particular form, though it may be found in either the Identity Section or Section II - Hazardous Ingredients.

EMPLOYEE MSDS REQUEST FORM

I, _____, do hereby request persuant to the Massachusetts Right to Know Law
name of employee

(M.G.L., Chapter IIIF), that I be provided with a copy of the Material Safety Data Sheet for each of the following chemical substances to which I may be, or have been exposed during my employment with _____

_____.
company name

_____

_____

Identify the chemical substances(s) either by chemical name, trade name, or common name, or other identifier:

_____ _____.

Use additional sheet of paper if necessary

This MSDS request form is submitted to the _____ Right to Know Coordinator _____
company name month/date/year

_____
Employee Signature

_____
RTK Coordinator